

Summary  
Norman-Bloodsaw v. Lawrence Berkeley Laboratory  
United States Court of Appeals, Ninth Circuit  
Decided February 3, 1998  
No. 96-16526

Background

Employees of the Lawrence Berkeley Laboratory brought claims against their employer for violations of the ADA, Title VII of the Civil Rights Act, and the United States Constitution. The employees claimed that the employer violated Title VII by selecting black employees for pre-employment sickle cell testing and women for pre-employment pregnancy testing. They also claimed that the employers violated the ADA by “requiring, encouraging, or assisting in medical testing that was neither job-related nor consistent with business necessity”. The employees also alleged that their federal right to privacy was violated by the acts of testing and maintaining the test results in personnel files. The employees contended that the tests at issue were conducted without their knowledge or consent; they did not argue that any adverse employment-related actions were taken based on the test results.

The court upheld the plaintiffs’ claims regarding violation of Title VII and their federal right to privacy but denied the claims regarding violation of the ADA. The court determined that the employers did discriminate against black and female employees by singling them out for nonconsensual testing on which their employment was contingent. The decision regarding privacy violations was based on the observations that “the most basic violation [of privacy] involves the performance of unauthorized tests – that is the non-consensual retrieval of previously unrevealed medical information that may be unknown even to the plaintiffs” and “[there are] few subject areas more personal and more likely to implicate privacy than one’s health or genetic information.” The ADA claim failed because neither the testing nor the retention of the records is prohibited by the ADA.